

REMARKS

This amendment is in response to the Office Action dated August 20, 2007. While Applicants maintain that previously presented claim 1 is patentable, in order to facilitate prosecution, claim 1 is amended. The remaining claims 2 – 7 and 10 – 11 now depend directly or indirectly from claim 1. Accordingly, claims 1 – 7 and 10 – 11 are in the application.

The Examiner is requested to enter and consider this Amendment even though presented after final rejection since the amendments narrow the scope of the claims, overcome the cited prior art, put the instant amended claims in condition for allowance, and require no additional search and little additional effort on the part of the Examiner.

The §102(b) rejection of claims 1, 3 - 7 and 10 -11 as being anticipated by WO 97/27173 is respectfully traversed. More specifically, the definition of claim 1 is amended such that R₅ is now defined as “C₁-C₁₂alkoxy-C₁-C₁₂alkyl”. In view of the foregoing, Applicants contend that the disclosure in the cited published PCT application is inadequate to support a rejection grounded upon 35 USC § 102. Reconsideration and withdrawal thereof are respectfully requested.

The Examiner's presumption that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made is correct.

Applicants respectfully traverse the § 103 rejection of claims 1 – 7 and 10 – 11 as being obvious over the disclosures of WO 97/27173 and Ikegami et al (US 6,437,184).

As noted above, claim 1 is such that R₅ is now defined as “C₁-C₁₂alkoxy-C₁-C₁₂alkyl”. The WO 97/27173 publication does not disclose a compound of formula (I) wherein R₅ is C₁-C₁₂alkoxy-C₁-C₁₂alkyl. The examples on pages 23-38 of the '173 publication that are noted by the Examiner include compounds wherein R₈ and R₉ can be alkyl or together form a saturated heterocyc-N-yl. This is not a C₁-C₁₂alkoxy-C₁-C₁₂alkyl moiety as specified in the present claims.

The Examiner asserts that Ikegami et al teach that carbonyl and oxime groups are equivalent. In making this assertion the Examiner directs the Applicant to columns 9-10 and columns 233-296. Presumably, the Examiner is drawing the Applicant's attention to the carbonyl compounds of formula 14. However, compounds of formula 14 are only disclosed in the context that

they are useful as intermediates for the production of the (oxime) compounds of the Ikegami disclosure. Thus, there is not any express teaching in Ikegami that carbonyl and oxime groups are, in fact, equivalent; particularly in respect of insecticidal compounds. Indeed, none of the actual examples of active compounds disclosed in columns 233-296 are carbonyl derivatives (they are all oxime derivatives).

Thus, contrary to the Examiner's assertion, the Applicant submits that Ikegami et al does not contain any express teaching that carbonyl and oxime groups are equivalent - and thus one of ordinary skill would not be motivated to combine the WO'173 and Ikegami teachings in order to arrive at the present invention in the manner suggested by the Examiner.

Structural similarity alone is not sufficient to establish obviousness. One of ordinary skill in the art cannot simply take various components and combine them without a commonality of purpose or characteristics that gives the artisan some reasonable expectation of success. In the present case, the Examiner has not pointed to any reasonable expectation of success for one of ordinary skill to make the proposed modification. Accordingly, the requirements for a finding of obviousness have not been fulfilled. Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above amendments and remarks, Applicants submit that present claims 1 – 7 and 10 – 11 are allowable over the cited art. Withdrawal of all rejections is respectfully requested, along with issuance of a Notice of Allowance. Applicants invite the Examiner to telephone the undersigned attorney of record if the Examiner feels that the call will be beneficial to advance prosecution of the application.

Respectfully submitted,

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Date: November 20, 2007